DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
69 DARLINGTON AVENUE
WILMINGTON, NORTH CAROLINA 28403-1343

REPLY TO
ATTENTION OF

CESAW-CDR

21 July 2009

MEMORANDUM FOR DISTRIBUTION D

SUBJECT: Commander's Policy Memorandum No. 5 - Setbacks Along Federally Authorized Waterways

1. Purpose. This memorandum provides general policy and guidance for setbacks of piers, docks, or any other waterfront structures constructed along federally authorized navigation channels maintained by the U.S. Army Corps of Engineers, Wilmington District. It is the intent of this policy to equitably manage the construction of structures along the Federal channels, preserve the Government's ability to maintain such waterways, and provide a margin of safety to those who use such waterways.

2. Applicability. This policy amends the prior policy of 26 August 2006 and applies to all permit applications received after the date of this memorandum, pursuant to Section 10 of the River and Harbor Act, 33 U.S.C. 403, and to Section 404 of the Clean Water Act, where applicable, for the construction and placement of docks, piers, and other structures along federally authorized and maintained shallow draft navigation channels within the Wilmington District Civil Works Boundaries. This policy will not apply to Federal projects that have established harbor and pierhead lines or where setbacks have been established by law. This policy statement is an internal Wilmington District guidance document; it is not a permit to be utilized by the public.

3. Definitions.

a. Shallow draft navigation channels are federally maintained navigation channels with project depth dimensions less than 18 feet mean low water.

b. Waterfront structures include any relatively permanent structure placed below mean high water of a waterway. This term includes, but is not limited to, bulkheads, seawalls, groins, revetments, rip rap, or other hardened stabilization, dolphins, piles, boat lifts, and mooring buoys.

c. Channel intersections are defined as the point of intersection of two or more channel centerlines.

d. A setback is defined as the distance between a structure and a federally authorized and constructed channel (i.e., the distance that a structure must be "set back" from the edge of the channel). All setbacks are measured from the near bottom edge of the channel to the nearest point of the structure, whether that point is fixed or floating.

e. Maintenance and Repair is the fixing of any structure that becomes out of order or broken, as well as performing routine actions to keep its operation in a functional and serviceable capacity. Maintenance does not include any modification that changes the character, scope, size, or footprint of the original structure.

f. Redevelopment is the re-building or re-assembling of any structure that is no longer functional or serviceable in its original capacity, specifically pertaining to its framing and structural components. This would include beams, girders, joists, stringers, and/or pilings. Structures severely damaged or destroyed by natural or man-made events, including normal deterioration are considered in this category.

4. General. The following setbacks are designated to ensure that no structures encroach beyond the top edge of the navigation channel, including appropriate side slopes, and that there is sufficient clearance for dredging the navigation channel to its full width and depth, including side slopes. Absent unusual circumstances, the following guidelines will apply.

a. Except as provided in subparagraphs b, c, and d below, piers, docks, or waterfront structures should not extend any closer to the near bottom edge of the Federal channel than the sum of three times the project depth, plus 2 feet overdepth, plus 10 feet. (Example: 6-foot project + 2-foot overdepth = 8 feet x 3 + 10 = 34-foot setback from near bottom edge of channel). This will allow for full maintenance dredging of the Federal project, with allowable overdepth and appropriate side slopes (generally a 3:1 slope), and give dredging contractors adequate room to conduct operations without endangering docks and other structures. Additionally, these setbacks should allow for the safe passage of vessels appropriately sized to navigate these Federal channels.

b. Atlantic Intracoastal Waterway (AIWW). Piers, docks, or other waterfront structures should not extend any closer to the near bottom edge of the AIWW Federal channel than 80 feet. Additionally, there are four instances when the setback is more than 80 feet, as outlined below.

(1) Bends in the AIWW Navigation Channel. Bends are especially dangerous for vessels, especially those pushing barges. Large vessels negotiating turns, particularly when currents are swift, require additional clearance to safely navigate through bends in shallow-draft channels. Accordingly, where the angle of deflection of the centerline of the AIWW channel from straight is less than 30 degrees, the setback will be expanded to 120 feet on the inside of the bend and 100 feet on the outside of the bend. This expansion will be from the near bottom edge of the Federal channel for 1,000 feet in length along the centerline of the channel extending in both directions from the point of intersection at the channel bend. Angles of deflection from straight that are 30 degrees or more will be expanded to 150 feet on the inside of the bend and 100 feet on the outside of the bend from the near bottom edge of the Federal channel for 1,500 feet in length of the centerline of the channel going both directions from the point of intersection at the channel bend. If these expanded setback ends are within 1,000 feet of one another, the two expanded lengths will be connected, using the smaller of the two setbacks for the intervening distance. All deflections are measured using the centerlines of the channel. All setbacks are measured from the near bottom edge of the channel. Please see Figure 1.

(2) Inlet Crossings. AIWW setbacks are expanded at inlet crossings based on the current centerline of the inlet connecting channel to the AIWW. The setback is 250 feet on the inlet side of the waterway and 200 feet on the mainland side of the waterway from the near bottom edge of the Federal channel for 2,500 feet in both directions from the inlet centerline intersection with the AIWW. This is necessary to accommodate increased traffic around inlets, faster and stronger currents, to account for the more dynamic nature of shorelines and shoal features adjacent to inlets, and to allow for maintenance dredging of approved channel widener segments adjacent to inlets.

(3) Disposal Areas. In areas identified as federally used disposal areas, the setback has been expanded to 300 feet from the near bottom edge of the Federal channel for a length to be determined by the geography on the ground. This will allow for necessary access of Federal contractors to disposal areas, vital for the ongoing maintenance of the AIWW.

(4) Channels Connecting with the AIWW. Channel connections are especially dangerous for vessels, especially those pushing barges. Additional setbacks in these areas will allow for adequate line-of-sight for vessel captains and adequate space for turning vessels and generally increased traffic. Accordingly, the setback has been expanded to 150 feet on the inside of the connection and 100 feet on the outside of the connection. The length of the expansion will extend from the near bottom edge of each intersecting Federal channel for a distance of 750 feet along the centerline of the connecting channel from the centerline intersection.

c. Inlet Navigation Projects. Many of the Federal Navigation projects involving channel maintenance within ocean inlets and some side channels and river channels follow the deepest water at the time of maintenance, as opposed to established project limits defining a fixed Federal channel. Due to the dynamic nature of these areas, structures should generally not be constructed within the inlet area, defined as the area from the ocean limits of the Federal navigation project through the natural deep water of the gorge to its intersection on the AIWW or other fixed Federal channel. On other channels that follow the deepest water, piers, docks, or other waterfront structures may only be constructed if approved by the Chief of Navigation as having an unlikely chance of being included in the anticipated migration limits of the channel.

d. Small Boat Harbors and Harbors of Refuge. Piers, docks, and other waterfront structures should not extend any closer to the near bottom edge of the Federal channel than the sum of three times the project depth plus 2 feet overdepth. (Example: 6-foot project + 2-foot overdepth = 8 feet x 3 = 24-foot setback from near bottom edge of channel). This provision shall only apply where there is no through channel passing through or connecting to the harbor.

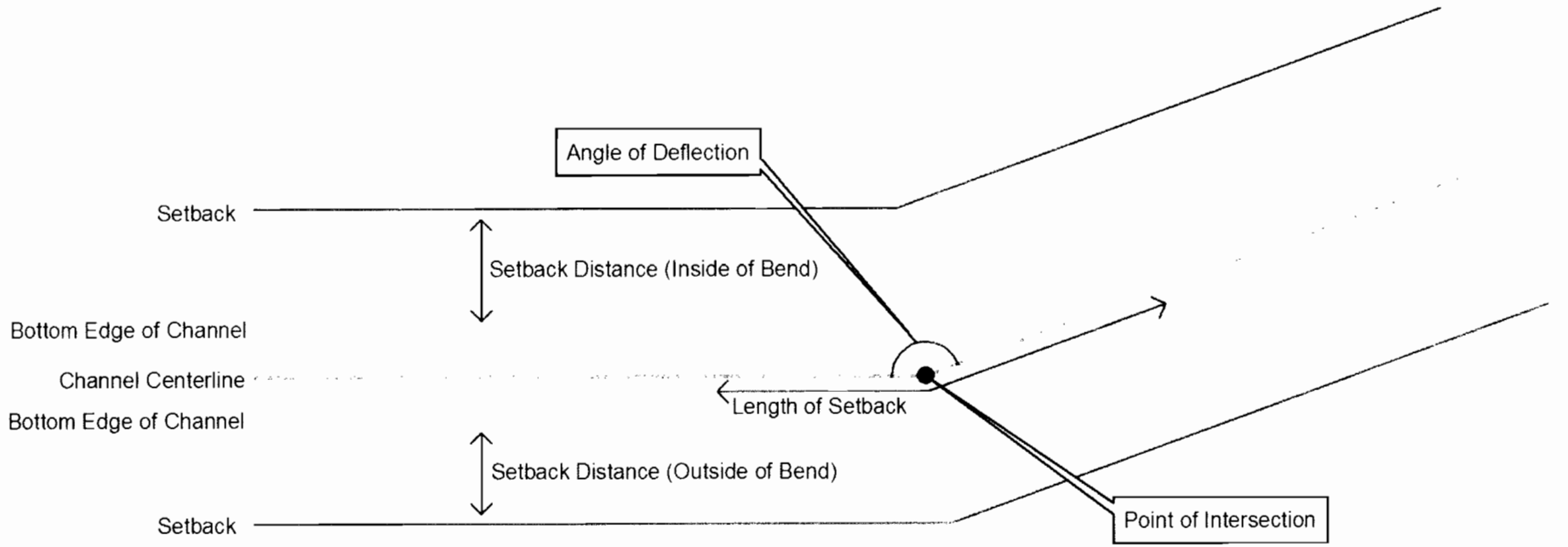
5. Existing Structures. Existing piers, docks, or other waterfront structures located in the Federal channel setback, which are subsequently destroyed by natural or man-made events, will be subject to current setback policy and any required regulatory permit action. The redevelopment of existing piers, docks, or other waterfront structures, (e.g., the conversion of commercial seafood docks to a residential marina), will be subject to current setback policy and any required regulatory permit action. The maintenance and repair of existing piers, docks, or other waterfront structures located in the Federal channel setback may be authorized provided the work does not increase the footprint of the existing structure or result in additional encroachment into the setback. No new structures, and no reconstruction or redevelopment of existing structures, will be allowed within the authorized boundaries of any Federal channel.

6. Application. All setbacks will be displayed graphically on the Wilmington District's Navigation Internet Mapping Service (IMS). This is a mapping service offered by the Navigation Branch that shows navigation data. Included in this data are the Setbacks, AIWW Right-of-Way, Federal Navigation Channels, and more. This data is freely available to the public on our webpage at http://www.saw.usace.army.mil/nav/ or more specifically at, http://www.saw.usace.army.mil/nav/IMS_Disclaimer.htm. All of the latest setback information, including location of the setback and X and Y Coordinates in NC State Plane Feet and Latitude and Longitude in Decimal Degrees, will be displayed on the IMS.

Encl

JEFFERSON M. RYSCAVAGE
Colonel, EN
Commanding

Figure 1



Bend setbacks are based on the angle of deflection of the centerline of the AIWW channel.
The width and length of the setbacks are based on how sharp the turn or bend is.
The length of the setback is measured down the channel along the centerline starting at the bend.
The width is measured from the near edge of the channel.